

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JEMBRO STORES, INC., : X
Plaintiff, :
- against - : Civil Action No. 07CV 6766
SHLOMO FAKSE, YS DESIGNING OF :
NEW YORK, INC., :
Defendants. : X

Defendants Shlomo Fakse (“Fakse”) and YS Designing of New York, Inc. (“YS”) (Fakse and YS are hereinafter sometimes collectively referred to as “Defendants”), by their attorneys, Lazarus & Lazarus, P.C., answering the 2nd Amended Complaint (the “Complaint”) of Plaintiff Jembro Stores, Inc. (“Plaintiff”).

1. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered "1" as to the "Nature of the Case" except specifically deny taking, undertaking, or causing, directly or indirectly, by act or omission, or otherwise, any act, conduct or omission giving rise a liability to Plaintiff as set forth in the said paragraph "1."

2. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered "2."

3. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered "3."

4. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered "4."

5. Admit only so much of paragraph "5" if the Complaint as alleges that residence address of Fakse which has an office at 1350 Broadway, New York, NY, to which Fakse reports, and denies the balance thereof.

6. Admits so much of the allegations of paragraph "6" of the Complaint as alleges the offices of YS, the generality of its business and the usage of the "Paris Textile" tradename, and denies the balance thereof.

7. Deny taking, undertaking, or causing, directly or indirectly, by act or omission, or otherwise, any act, conduct or omission giving rise a liability to Plaintiff as set forth in the said paragraph "7," but otherwise do not contest the in personam jurisdiction of this Court.

8. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "8," except deny knowledge or information sufficient to form a belief as to the citizenship of Plaintiff.

9. Assuming the subject matter jurisdiction of this Court, admit the allegations set forth in the paragraph of the Complaint marked and numbered "9."

10. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered "10."

11. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered "11."

12. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered "12."

13. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered "13."

14. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered "14."

15. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "15," except admit that from time to time Fakse, on behalf of YS,

or other representatives of YS, have entered into discussions relating to the purchase and sale of goods with Plaintiff, or Plaintiff's representatives, on behalf of YS.

16. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "16."

17. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "17."

18. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "18."

19. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "19," except deny knowledge or information sufficient to form a belief as to the matters, if any, upon which Plaintiff relied.

20. Deny knowledge or information sufficient to form a belief as each and every allegation set forth in the paragraph of the Complaint marked and numbered "20."

21. Deny knowledge or information sufficient to form a belief as each and every allegation set forth in the paragraph of the Complaint marked and numbered "21," except refer to the Complaint filed in the Lawsuit and the Lawsuit docket for the content thereof.

22. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "22."

23. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "23."

24. Admit, generally, so much of the allegations of paragraph "24" of the Complaint as avers the procedure in the Lawsuit, except refers to the pleadings and docket thereof for the best evidence in connection therewith.

25. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "25."

26. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "26."

27. Plead to each and every allegation set forth in the paragraph of the Complaint marked and numbered "27" as hereinbefore alleged.

28. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "28."

29. Pleads to each and every allegation set forth in the paragraph of the Complaint marked and numbered "29" as hereinbefore alleged.

30. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "30."

31. Plead to each and every allegation set forth in the paragraph of the Complaint marked and numbered "31" as hereinbefore alleged.

32. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "32."

33. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "33."

34. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "34."

35. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "35."

36. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "36."

37. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "37."

38. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "38."

39. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "39."

40. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "40."

41. Plead to each and every allegation set forth in the paragraph of the Complaint marked and numbered "41" as hereinbefore alleged.

42. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "42."

43. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "43."

44. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "44."

45. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "45."

46. Plead to each and every allegation set forth in the paragraph of the Complaint marked and numbered "46" as hereinbefore alleged.

47. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered "47" and refers to the Complaint and the Fifth Count for the substance thereof.

48. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered "48."

49. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "49."

50. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "50."

51. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "51."

52. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "52."

53. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "53."

54. Plead to each and every allegation set forth in the paragraph of the Complaint marked and numbered "54" as hereinbefore alleged.

55. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered "55" and refers to the Complaint and the Sixth Count for the substance thereof.

56. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered "56."

57. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "57."

58. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "58."

59. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "59."

60. Deny each and every allegation set forth in the paragraph of the Complaint marked and numbered "60."

61. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the paragraph of the Complaint marked and numbered "61."

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

62. This Court lacks subject matter jurisdiction over this Action.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

63. The Complaint fails to set forth claims upon which relief can be granted.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

64. The Complaint fails to properly plead fraud and deceit.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

65. Complaint fails to properly plead a breach fiduciary duty.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

66. The Complaint fails to properly plead a false designation of origin.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

67. The Complaint fails to properly plead trademark infringement.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

68. The Complaint is barred by the Statute of Frauds.

AS AND FOR AND EIGHTH AFFIRMATIVE DEFENSE

69. The Complaint is barred by the Parol Evidence Rule.

Respectfully submitted this 18th day of December, 2007.

LAZARUS & LAZARUS, P.C.

By: _____

 Harlan M. Lazarus (HML 0268)

Attorneys for Defendant

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